

MINUTES

REGULAR MEETING OF
CITY OF ALAMEDA ECONOMIC DEVELOPMENT COMMISSION
THURSDAY, JANUARY 15, 2009
7:30 PM

1. CALL TO ORDER AND ROLL CALL

Chair Zuppan called the meeting to order at 7:30 p.m.

Present: Chair Zuppan. Commission Members: Bonta, Breuer, Dahlberg, Harrison, Lindsey, Milgram, and Ryan

Absent: None

Vacancy: (1)

Staff: Eric Fonstein and Rosemary Valeska

1.a. Introduction of New EDC Members, Horst Breuer and Justin Harrison

On behalf of the EDC, the Chair welcomed the new members and asked them to make a few statements regarding their backgrounds. Commission Member Breuer recapped his Army police, security, and logistics experience. He went on to become an Executive Manager of the Army & Air Force Exchange Service. He has lived in Alameda for most of the past 20 years and had previously served on the Planning Board. Commission Member Harrison has been an Alameda resident his entire life. He is the vice president and treasurer on the board of Alternatives in Action. He works with non-profits to help them become productive and self-sustaining. He is currently working on a doctorate degree.

2. MINUTES

2.a. Minutes of the Regular Meeting of October 16, 2008

Motion (Bonta), seconded, and unanimous (with abstentions by Breuer and Harrison) to approve the minutes of the Regular Meeting of October 16, 2008 as submitted.

2.b. Minutes of the Regular Meeting of November 20, 2008

Motion (Milgram), seconded, and unanimous (with abstentions by Bonta, Breuer, and Harrison) to approve the minutes of the Regular Meeting of November 20, 2008 as submitted.

3. CONSENT CALENDAR

(None)

4. ORAL COMMUNICATIONS – PUBLIC

(None)

5. UNFINISHED BUSINESS

(None)

6. NEW BUSINESS

6. a. Brown Act Presentation by the City Attorney's Office

The presentation was given by Donna Mooney, Senior Assistant City Attorney. The Commission Members had been provided with copies of *Open & Public IV: A Guide to the Ralph M. Brown Act* in their meeting packets. Ms. Mooney gave a brief recap of the history of the Brown Act, which is now 56 years old. The Brown Act, originally referred to as the "Secret Meeting Law," came about after a series of articles regarding "Your Secret Government," which appeared in the *San Francisco Chronicle* in 1951. In the 1980s, following a challenge by the City of San Diego, the courts ruled that the Brown Act also applied to Charter Cities.

The Brown Act states that the people's business must be open and public, all must be able to attend meetings, and there are to be no secret ballots. This applies to City Council and appointed legislative bodies such as the Planning Board, the Public Utilities Board, and the Economic Development Commission. This Brown Act applies to these bodies' long term meetings that have been set by legislation; however, a committee made up of less than a quorum and no other persons would not be subject to the Brown Act. Notice of a regular meeting is required 72 hours in advance. Notice of a special meeting is required 24 hours in advance. No formal action can be taken on an item not on the agenda. Commission Members may briefly respond to questions or comments by the public on items not on the agenda; however, anything beyond that would require asking staff to place the matter on a future agenda. Public comment must occur prior to the Commission Member deliberation. A member of the public can record a meeting unless it is determined to be a disruption.

The term "meeting" under the Brown Act is not limited to gatherings at which action is taken but includes deliberative gatherings as well. A citizen filed a complaint against the City of Fremont, as the City Manager would meet with individual City Council members prior to a City Council meeting. The City of Fremont denied that these individual meetings were for the purpose of gathering collective concurrence. The Brown Act was subsequently amended to prohibit using a series of communications to discuss, deliberate, or take action on any subject matter under their deliberation. There can only be shared discussion at an open meeting. There can be no "go betweens" polling each member.

Technology as it relates to the Brown Act was addressed. Regarding members sending e-mails, sending the initial e-mail is usually fine; however, the problem arises when there is an e-mail response. Members should avoid sending group e-mails and should be careful about sending a "cc" to everyone. Audio and video teleconferencing is permitted. The agenda must be posted at each teleconferencing location and each location must be accessible to the public. Votes must be done by roll call.

What is not a meeting? Two members talking is not a meeting; no advance agenda is needed. Attendance at a conference is not a meeting as long as members don't discuss business among themselves. Enforcement of the Brown Act is done in various ways. Notice is given to an agency and a cure is demanded. An action could be invalidated. If the matter goes to court and the agency was found at fault, the agency would be required to reimburse the complaining party's attorney fees. Prosecution by the district attorney is an option, but this is extremely rare. Since the rules regarding closed session meetings do not apply to the EDC, only City Council, Ms. Mooney did not address that here. Ms. Mooney told the Commission Members to feel free to contact her with any additional questions or requests for information on the Brown Act.

The Chair opened the floor to Commission Member questions:

- Commission Member Harrison asked if an agenda was posted on the City website, was it still required to post hard copies. Ms. Mooney responded that the State Attorney General had ruled that due to the "technology gap," electronic postings alone did not meet the requirements of the Brown Act.
- Commission Member Milgram asked about a quorum of members discussing items not under agenda consideration. Ms. Mooney recommended against that, as the EDC is charged with broad tasks. Items can always be placed on an agenda. Social gatherings are not considered meetings under the Brown Act; however, members can not discuss matters under their jurisdiction. It is best to wait for a meeting.
- Commission Member Bonta asked what are the biggest pitfalls – was it e-mailing other commission members? Ms. Mooney responded that e-mail is by far the easiest to do. Donna advised to always have the public on your shoulder. E-mail can create problems down the line. There can also be problems in responding to members of the public regarding items not on the agenda. Ms. Mooney added that usually Alameda does not have problems with the Brown Act.
- The Chair asked how the Brown Act would apply to the creation of an advisory committee of less than a quorum. Ms. Mooney responded that the creation of the subcommittee should be placed on the agenda; however, Brown Act requirements would not apply to the meetings of a short term subcommittee.

The Chair thanked Ms. Mooney for her presentation. This item was presented for information, only; no EDC action was requested

6. b. Endorse the Parking Management Strategy for the Park Street and West Alameda Business Districts

Mr. Fonstein stated that the parking management strategy was a collaborative effort of the Development Services, Planning & Building, and Public Works Departments. Doug Garrison of Planning & Building and Obaid Khan of Public Works were in attendance to provide support as needed. Mr. Fonstein stated that this effort was in response to concerns expressed by the business associations that minimum parking requirements and in-lieu parking fees are too expensive and inhibit small infill development. Concerns have also been expressed by residents adjacent to the business districts about parking overflow into the neighborhoods. Mr. Fonstein gave a PowerPoint presentation. (A copy is attached for reference.) Mr. Fonstein stated that this item was tentatively scheduled for City Council acceptance and endorsement on March 3. Mr. Fonstein stated that the Planning Board and Transportation Commission would like to see parking in-lieu fees used for initiatives other than offsetting parking stall costs. A possible ordinance is in the works.

The Chair opened the floor to Commission Member questions.

- Commission Member Bonta asked for an example of underutilized parking. Mr. Fonstein cited the West Marine parking lot as a good example.
- Commission Member Bonta asked what the current cost of an in-lieu space is. Mr. Garrison responded that it is in the \$6,000 - \$8,000 range. He added that the proposed in-lieu fee recommendation was an attempt to look for equity in dealing with smaller businesses.
- Commission Member Bonta referenced the Redwood City ordinance that was an attachment to the staff report. The purpose of that ordinance was to price the on-street public parking at a rate so as to achieve a 15 percent vacancy rate in the parking spaces on each block. Commission Member Bonta asked if the Redwood City ordinance was being monitored. Mr. Khan responded that he was not aware of any monitoring reports to date. Mr. Fonstein added that he had spoken with Redwood City staff and they are very pleased.
- Commission Member Bonta asked how the recent parking meter rate increases have been working. Mr. Fonstein responded that he has not yet heard any complaints about it from the merchants. He added that he wants to review the empirical data to see if we are reaching our 15 percent vacancy rate goal.

- Commission Member Bonta referenced the draft residential parking permit program that was an attachment to the staff report. Mr. Fonstein stated that the residential survey done a couple of years ago showed people expressing strong responses on both sides of the issue. Commission Member Bonta asked if a two-hour parking restriction in the residential areas would be enforced by marking tires. Mr. Fonstein responded that it would. He added that the cost of enforcement would be tied to the cost of the residential parking permit. The program is intended to be cost-neutral to the City. In the future there might be use of new technologies.
- Commission Member Milgram stated that she was impressed with the report and how it was data-based. She asked if the City expects to see a revenue increase as a result of the parking management program. Mr. Fonstein responded that way-finding signage needs to be funded; however, the City should break even.
- Commission Member Dahlberg asked who pays the in-lieu parking fee. Mr. Fonstein responded that the developer pays.
- Commission Members Lindsey and Ryan had no comments or questions.
- Commission Member Breuer asked if in-lieu fees could be totally waived for a business coming into Alameda. Mr. Fonstein responded that it could under certain conditions. Mr. Garrison added that the City has done that. The City or Planning Board has waived fees in some cases. The Planning Board will be looking into ways of dealing with this in the future. Mr. Khan cited parking sharing and the historical building waiver. Commission Member Breuer commented that the historical building waiver can be a touchy subject. Mr. Fonstein cited Alameda Bicycle's 800 square-foot expansion. Under the current standards, four new parking spaces would have been needed, or \$24,000; under the proposed standards, two new parking spaces would be needed, or \$10,500.
- Commission Member Breuer stated that he was concerned about the cost of monthly permit parking for minimum wage retail employees. Mr. Khan commented that the proposed \$50 per month employee parking permit cost is less than paying the meter rate.
- Commission Member Breuer stated that some home-based businesses, such as contractors, will park several work vehicles on their street. He asked about the enforcement policy regarding that. Mr. Garrison responded that the City requires a Home Occupation Permit for home-based businesses and that the permit restricts what can be done from the home, including materials stored and multiple vehicles. The Planning Department makes it clear that "this permit is for your office, only." Code enforcement can be brought in

if needed. Code enforcement will respond to a citizen complaint; however, they cannot monitor every home.

- At Commission Member Breuer's request, Mr. Fonstein discussed some of the different parking technologies.
- Commission Member Breuer commended the report. Commission Member Harrison stated that he had concerns about the proposed residential permit program and asked if we had looked at residential permit costs in other cities. Mr. Khan stated that they had looked at other cities and the cost ranges from \$38-\$40 per permit. We want to make our program cost neutral. He added that people will buy their permits initially but will stop buying them over time. The City may pursue the creation of an assessment district instead. A residential permit program would need to cover a six-block area to be financially viable.
- Commission Member Harrison asked about potential revenue from violations. Mr. Khan responded that in other cities, violations don't bring in that much revenue. Staff in Walnut Creek and Redwood City has recommended that it is better to have a consistent stream of funding.
- Commission Member Harrison asked about the historic building waivers. Mr. Garrison responded that a change of business in a historic building would not normally trigger an increase in parking requirements; however, a change of use or new construction that would expand the size of the building would trigger an increase.
- Commission Member Harrison asked if the office category includes medical offices. Mr. Fonstein responded that it did. Commission Member Harrison commented that medical offices tend to have a higher parking demand than other office uses and that we might consider separating out uses within the office category. Mr. Fonstein responded that we might look at shared parking agreements, and that the proposed plan allows for more flexibility than we have now.

Motion (Breuer) and seconded that the EDC endorse the Parking Management Strategy for the Park Street and West Alameda Business District. Commission Member Bonta asked if the EDC wanted to follow the lead of the Transportation Commission by recommending broadening the use of in-lieu fees. Mr. Khan responded that this is already policy – the present ordinance allows use of the funds for bus shelters. The Transportation Commission is currently looking at the use of these funds for bicycle enhancements, also. No amendment to the motion was made. Motion passed unanimously.

7. REPORTS

(None)

8. WRITTEN COMMUNICATIONS

8.a. Upcoming EDC Agenda Items

8.b. Redevelopment Magazine

9. ORAL COMMUNICATIONS – COMMISSION MEMBERS AND STAFF

- Mr. Fonstein reported the following:
 - Debbie Potter is scheduled to give a presentation to the EDC regarding the status of the Alameda Point/SunCal project at the February 19 Regular Meeting.
 - Aidan Barry of Catellus is scheduled to give a presentation to the EDC regarding the status of Alameda Landing at the March 19 Regular Meeting. Mr. Barry will also be giving an update to the City Council at the March 17 Regular Meeting.
 - There have been dozens of responses to the Development Services Director's outreach letter to Alameda businesses. Some of the responders have requested assistance on things like signage.
 - \$300,000 had been budgeted in FY 2008/09 for the Façade Assistance Program. The funds were all spent by the first month. We will be requesting an additional \$200,000 during the mid-year budget process.
 - Street trees are being selected for the Park Street Streetscape Phase II project.
 - The California Redevelopment Association (CRA) has selected the Alameda Theatre Complex for its Award of Excellence in the Special Category. The award will be presented during the CRA's Annual Conference & Expo awards luncheon, scheduled for April 1 in Monterey.
- Commission Member comments:
 - Commission Member Harrison stated that he was looking forward to working with the EDC and thanked staff for his orientation meeting.
 - Commission Member Breuer also thanked staff for his orientation meeting.
 - The Chair stated that she wanted a New Business Item placed on the EDC's upcoming agenda. She stated that she had

recently attended a meeting convened by Council Member Matarrese for business leaders in the community. The purpose of the meeting was to gather input as to what was or was not working for businesses in Alameda. Council Member Matarrese would like more suggestions from the business community for City Council consideration that could be implemented at low or no cost to the City. The Chair stated that she wanted to agendize the creation of an EDC advisory committee for the purpose of continuing this effort. Commission Members Milgram and Bonta agreed that this should be agendized.

10. ADJOURNMENT

The meeting was unanimously adjourned at 9:20 p.m.

Respectfully submitted,

Rosemary Valeska
EDC Recording Secretary

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